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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/519,510

09/02/2005

Stephan Hase

101215-175

9230

27387 7590 02/19/2009
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EXAMINER

JANAKIRAMAN, NITHYA

ART UNIT

PAPER NUMBER

2123

MAIL DATE

DELIVERY MODE

02/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/519,510 | Applicant(s) HASE ET AL. | |
| | Examiner NITHYA JANAKIRAMAN | Art Unit 2123 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/8/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4,6-9,11-15,17-19,22-24 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4,6-9,11-15,17-19,22-24 and 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/09 has been entered. Claims 2-4, 6-9, 11-15, 17-19, 22-24, and 26-35 are submitted for examination.

Response to Arguments – 35 U.S.C §103

1. Applicant's arguments have been fully considered and are persuasive. The rejections of claims 2-4, 6-9, 11-15, 17-19, 22-24, and 26-35 has been withdrawn.

Claim Objections

2. Claims 2-4, 6-9, 11-15, 17-19, 22-24, and 26-35 are objected to because of the following informalities: limitation b) of all independent claims recites "adjusting...the demand forecast *with* predefined datasets represented of.." It is unclear if the demand forecast *contains* predefined datasets, or if the datasets are a factor and component of the adjustment. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-4, 6-9, 11-15, 17-19, 22-24, and 26-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Independent claims 18, 19, 22, and 29 recite “wherein the demand forecast specifies at least one of *a* version *and a* feature of expected customer orders *or* dealer specifications of the product”. It is unclear as to which options are presented, whether versions and features both are offered for just a customer order or dealer specification, or otherwise. All depending claims are rejected as well.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 29, 17 and 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claim 29 recites a “simulation system” comprising a series of “modules” and “means for” performing various steps. Giving the claim a broad reasonable interpretation, the claim recites a software system comprising software *per se*. Depending claims 17 and 30 are rejected as well.

Allowable Subject Matter

7. Brown and Strader teach a method for simulated order processing processes, comprising updating demand quantities and outputting customized order data to production sites. However, these references and the remaining prior art of record, fails to disclose or suggest “using the adjusted demand forecast *as placeholders for new actual customer orders* of a finished product and new actual dealer specifications of a finished product, wherein the new actual customer orders or new actual dealer specifications are incorporated into the order processing process *by matching the adjusted updated demand forecast with at least one of the new actual customer orders* and new actual dealer specifications, wherein the at least one of the actual customer order

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and the actual dealer specification is assigned to a matching, demand forecast not yet assigned to an actual customer order or an actual dealer specification” in combination with the remaining elements and features of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NITHYA JANAKIRAMAN whose telephone number is (571)270-1003. The examiner can normally be reached on Monday-Thursday, 8:00am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Paul Rodriguez can be reached on (571)272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nithya Janakiraman/
Examiner, Art Unit 2123

/Paul L Rodriguez/
Supervisory Patent Examiner,
Art Unit 2123

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